

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 630
Economic Matters

(Delegate Jameson)

Finance

Transportation - Mechanical Repair Contracts

This bill requires the obligor specified in a mechanical service contract to register with the Insurance Commissioner, including specified registration information and the payment of a \$25 annual fee, and to file mechanical repair contracts along with evidence that the obligor maintains adequate insurance reserves. A mechanical repair contract filed with the Insurance Commissioner is not subject to Commissioner approval, but the Commissioner may order an obligor to cease and desist from the sale of mechanical repair contracts for specified reasons. The bill alters the definition of a “mechanical repair contract” and prohibits a person that is not a vehicle manufacturer (or subsidiary), distributor, factory branch, or dealer and that sells a mechanical repair contract from making specified false, deceptive, or misleading statements. The bill authorizes the Insurance Commissioner to pursue an action against an unregistered person that offers a mechanical repair contract; for the same offense, it establishes a misdemeanor penalty of up to \$1,000, up to one year imprisonment, or both, not including the payment of restitution, which may also be imposed.

Fiscal Summary

State Effect: Special fund revenues increase minimally beginning in FY 2016 as the Maryland Insurance Administration (MIA) collects additional filing fees (\$125) associated with the filing of mechanical repair contracts and new registration fees (\$25) established by the bill. General fund revenues may increase minimally from the application of existing penalties under the Maryland Vehicle Law to the bill’s new prohibitions and from the collection of the new penalty established by the bill. Expenditures are likely not affected as MIA can handle the currently projected volume of filings and registrations with existing staff.

Local Effect: The bill is not anticipated to materially affect local government operations of finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill alters the definition of a “mechanical repair contract” to include an agreement or contract sold by *an obligor* under which the obligor agrees to perform any of several services enumerated in the bill, which generally pertain to the repair, *replacement*, or maintenance of a vehicle (current law applies to “services relating to the maintenance or repair of a motor vehicle”), including, among other things, towing, rental and emergency road service, and road hazard protection. The bill excludes from this definition warranties under the federal Magnuson-Moss Warranty Act, contracts or agreements for regular maintenance, or an agreement between a motor club and a club member or subscriber. Finally, the bill alters the definition by removing the phrase “but is not limited to” from the statement that a mechanical repair contract includes but is not limited to extended warranties and extended service contracts; thus, it appears that a mechanical repair contract, by definition, cannot include anything else.

An “obligor” is the person specified in a mechanical repair contract that is contractually obligated to perform the services set forth in the mechanical repair contract.

The bill also prohibits a person that is not a vehicle manufacturer (or subsidiary), distributor, factory branch, or dealer and that sells a mechanical repair contract from making a false, deceptive, or misleading statement with respect to (1) the person’s affiliation or possession of specified information; (2) the expiration of a manufacturer’s original equipment warranty; or (3) a requirement that the vehicle owner register for a new mechanical repair contract in order to maintain coverage under the owner’s current mechanical repair contract or the manufacturer’s original equipment warranty.

The bill requires the obligor of a mechanical repair contract executed on or before October 1, 2015, to register with the Insurance Commissioner within 90 days of the date that the registration application is made available. It requires a person that is not engaging in mechanical repair contract transactions on October 1, 2015, to register with the Commissioner before a mechanical repair contract is offered.

Finally, the bill specifies that a mechanical repair contract may not provide indemnification for a loss caused by “perils that are commonly covered by comprehensive or collision provisions” of an auto insurance policy.

Current Law/Background: A mechanical repair contract is defined as any agreement or contract sold by *a licensed vehicle dealer* under which a provider agrees to perform, over a fixed period, for a specific duration, and for an identifiable price, (any) services relating to the maintenance or repair (but not replacement) of a motor vehicle, provided that the purchase of the contract is optional to the purchaser.

The Maryland Vehicle Law establishes several requirements governing mechanical repair contracts. Among other things, a mechanical repair contract must only be offered in addition to any express warranty originally included as part of the contract for sale of a new motor vehicle. A provider of services under a mechanical repair contract must maintain adequate insurance reserves, as defined by the Insurance Commissioner, for each contract for the protection of the purchasing consumer. The provisions of the Maryland Consumer Products Guaranty Act also apply to a mechanical repair contract sold by a licensed vehicle dealer.

The federal Magnuson-Moss Warranty Act requires manufacturers and sellers of consumer products to provide consumers with detailed information about warranty coverage. The Act only governs written warranties on consumer products sold at retail. Under the Act, a warrantor or seller must:

- designate or title the written warranty as “full” or “limited”;
- state certain specified information about the warranty coverage in a single, concise document; and
- ensure that the warranties are available where warranted consumer products are sold.

State Fiscal Effect: Special fund revenues increase minimally beginning in fiscal 2016 as MIA collects additional \$125 filing fees from mechanical repair contract providers as well as from the collection of \$25 annual registration fees established by the bill. MIA advises that 29 mechanical repair contracts were filed in 2014. Thus, special fund revenues may only increase by several thousand dollars annually under the bill.

General fund revenues may increase minimally from the collection of any penalties established by the bill and from the application of existing penalties under the Maryland Vehicle Law to the bill’s prohibitions. Generally, a violation of the Maryland Vehicle Law is a misdemeanor and carries a maximum penalty of \$500. Violators may also prepay a civil fine instead of contesting the violation in court; currently, the prepaid fine for licensed dealers that violate provisions related to mechanical repair contracts is \$290.

Additional administrative fines apply to a dealer licensed by the Motor Vehicle Administration (MVA) that violates any provision relating to mechanical repair contracts, but other businesses that would be authorized to sell mechanical repair contracts under the bill are not licensed by MVA and not subject to these additional license-related penalties.

District Court data indicates that, in fiscal 2014, there were no such violations of the provisions relating to mechanical repair contracts (by licensed vehicle dealers), although, as noted above, administrative fines may be levied by MVA instead of pursuing civil penalties.

The bill's incarceration penalty is not anticipated to materially affect State finances.

Small Business Effect: Small businesses engaged in providing (or brokering the sale of) mechanical repair contracts may realize a meaningful increase in revenues or profits to the extent that the bill allows additional business opportunities related to the sale of such contracts and the expanded scope of services that may be sold under a contract. However, the bill also establishes a registration requirement, new penalties, and several prohibitions, which may subject providers to additional penalties under the Maryland Vehicle Law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Maryland Department of Transportation, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510